IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9827 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

TALOD JANTA COOPERATIVE BANK LTD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9827 of 2003

MR PS CHAMPANERI for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-3

RULE SERVED for Respondent No. 1-3

MR GM JOSHI for Respondent No. 4

NOTICE SERVED BY DS for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 25/04/2005

ORAL JUDGEMENT

In this matter, this Court (Coram : Ravi R.

Tripathi, J.) vide order dtd.25/2/2005 issued Rule and also confirmed the Ad-interim relief granted earlier on 14/7/2003.

2. The present petition has been filed by the Talod Janta Cooperative Bank Limited being aggrieved by the Judgement and Order dtd.27/6/2003 passed by the Presiding Officer, Labour Court, Himmatnagar in Restoration Application Nos.14 of 2003. The said Judgement and Order is a common order and the same has been passed by the learned Presiding Officer, Labour Court, Himmatnagar below Restoration Application Nos.14 to 17 of 2003 rejecting all the Restoration Applications.

3. Mr.P.S. Chapaneri learned advocate for the petitioner invited attention of this Court to the observations made by this Court (Coram : H.K. Rathod, J.) in Order dtd.1/4/2003 in Special Civil Application No.11689 of 2002 with Special Civil Application Nos.6438, 6441, 6452 and 6454 of 2002 and also the observations made by this Court (Coram H.K. Rathod, J.) in Order dtd.9/5/2003 passed in Special Civil application No.6635 with Special Civil Application Nos.6636 to 6639 of 2003. The learned advocate submitted that this Court while passing the Order dtd.9/5/2003, has observed as under;

"In view of above set of facts and circumstances, it is directed to the Labour Court, Himmatnagar to accept the applications for setting aside the ex-parte orders as submitted by the petitioner and fix the matter for hearing within a period of 15 days from the date of receiving copy of this order. However, it will be open for the petitioner to file separate application for interim relief before the labour court concerned with prayer for staying operation of the exparte orders. As and when such applications will be received by the Labour Court, Himmatnagar from the petitioner, it is directed to the labour Court, Himmatnagar to accept the same and examine the matter along with stay application and to pass appropriate orders on such application within one month thereafter on receipt of such application after giving reasonable opportunity to the respective parties of the proceedings. The Labour Court, Himmatnagar is also directed to decide the delay condonation application, if any, that may be filed by the petitioner along with the applications for setting aside the exparte award.

The learned advocate submitted that the learned

Judge ought to have considered the observations made by this Court and should have afforded an opportunity to the petitioner Bank to contest the matter on merits, either by ignoring the delay caused in filing the Restoration Application or by condoning the same.

The learned advocate tenders the copy of the Common Judgement and Order dtd.9/2/2005 rendered by this Court (Coram : Ravi R. Tripathi, J.) in Special Civil Application No.9828 with Special Application Nos.9829 and 9830 of 2003, wherein this Court has quashed and set aside the impugned Common Judgement and Order dtd.27/6/2003 qua Restoration Application Nos.15, 16 and 17 of 2003 and submitted that the present was petition qua Restoration Application No.14 of 2003 was left out at the relevant time and hence this Court may pass identical order. The said judgement and order dtd.9/2/2005 is taken on record.

4. Mr.G.M. Joshi, learned advocate appearing for the respondent No.4 workman has instruction to agree for fresh trial and get the matters heard on merits, provided the respondent No.4 workman is paid some reasonable amount towards the costs of the proceedings till date and also for their waiting for the fruits of the litigation for all this time.

5. Taking into consideration the fact that delay, if any, occurred in filing the Restoration Application, was on account of the fault of the erstwhile Management of the Bank, while, at present, the Liquidator is in-charge of the Bank and the Bank is a body corporate, it is not required to be punished for the fault of the erstwhile Management. In view of that, the Common judgement and Order dtd.27/6/2003 passed by the Presiding Officer, Labour Court, Himmatnagar in Restoration Application Nos.14 to 17 of 2003, is quashed and set aside qua Restoration Application No.14.

The matter is remanded to the Labour Court for being decided on merits after giving full opportunity to both the sides. Taking into consideration the age of the litigation, it is directed that the learned Presiding Officer shall give top priority to the hearing of the matter and shall decide the same as early as possible, but not later than 16th May, 2005.

This direction is given on an assurance given by the learned Advocates appearing for the parties that their counterparts will extend full cooperation to the learned Presiding Officer so as to see that the matter is

decided in the aforesaid time frame and will not seek any voidable adjournment in the matter.

The amount of Rs.16,000-00, paid to respondent workmen under the Recovery Certificate, shall be treated to have been paid towards the costs of the proceedings and shall not adjusted against any dues payable to the respondent workman.

With the aforesaid directions, the present petition is disposed of. Rule is made absolute to the aforesaid extent only.

(Sharad D. Dave, J.)

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